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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,647	11/09/2001	Toshikazu Tomizawa	723-1216	5601

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EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT PAPER NUMBER

3713

5

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,647

Applicant(s)

TOMIZAWA ET AL.

Examiner

Yveste G. Cherubin

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the US Application No. 09/986,647 filed November 9, 2001. It carries priority from Japanese Application No. 2001-85540 filed March 23, 2001. Claims 1-26 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashida (JP Application No. 10-354013- of record- translation provided) in view of Okada (US Patent No. 4,657,247).

As per claims 1, 14, 15, Hayashida discloses a game system comprising a display means (26), operation switches (PB1-PB14, PB21-PB31) operated by players, operation pattern data storage means for storing operation data including operation timing data defining an operation timing of the operation switches to be operated by the player, and operation type data defining which type of the operation switches is to be operated with the operation timing (lines 3-5 at paragraph [0006]), display control means for having said display means sequentially displayed, based on the operation pattern data, information about the operation timings and the types of the operations switches to be operated by the player [0022-0023], evaluation means for successively

Art Unit: 3713

evaluating with the progress of the game, correlation between the operation timings and types of operation switches operated by the player responding to the information displayed on display means and the operation timings and types defined by operation pattern data, [0006]. Hayashida fails to disclose a difficulty level change means for dynamically changing a difficulty level of a game operation input in accordance with the evaluation made by said evaluation means for a predetermined period. Okada teaches an analogous art related to a game system in which the degree of difficulty in playing a game is automatically adjusted in accordance with player's skill, 1:7-22, 4:37-48, 4:5-48, 5, 5:5-12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Hayashida type system to implement the dynamic change level means as taught by Okada in order to provide a game system that players will be able to play at ease and therefore enjoy.

As per claims 2, 16, Hayashida in view of Okada disclose the claimed invention as substantially as discussed above. Hayashida further discloses a game machine further comprising music data storage means for storing music data (lines 4-6 at paragraph [0012]), and presentation effect responding to how the operation switches are operated (lines 1-4 at paragraph [0011] and lines 1-4 at paragraph [0012]).

As per claims 3-5, 18, Hayashida discloses difficulty level change means canceling the skip operation type data partially and controls display control means to perform display control and evaluation means to perform evaluation (lines 9-12 at paragraph [0008]).

Art Unit: 3713

As per claims 6, 19, Hayashida in view of Okada disclose the claimed invention as substantially as discussed above. Hayashida in view of Okada fail to disclose displaying operation timings and the types defined by operation pattern data in a different tempo. Hayashida discloses a musical game system where sound is played in correlation to operation timings and the types defined by operation pattern data, lines 1-2 at paragraph [0012]. Displaying pattern data in a different tempo would have been a matter of design choice. This modification would have been obvious to one of ordinary skill in the art at the time the invention was made in order to provide a different music sound, which would excite the players.

As per claims 7, 20, Okada teaches evaluation being performed in correlation between operation timings and operation switches operated by the player and the operation timings defined by said operation pattern data, 2:25-45. Hayashida discloses skipping operation type data in the low difficulty level, lines 9-12 at paragraph [0008].

As per claims 8, 21, changing operation type data to data of any other type of the operation switches easier in operation when responding to poor evaluation would have been obvious. This modification would provide a low difficulty level to players therefore allowing them to play at ease and enjoy the game.

Art Unit: 3713

As per claims 9, 22, setting the operation switches to operate simultaneously would have been a matter of design choice. This modification would provide a more challenging game to players. As per skipping one type of operation switches out of a plurality of operation switches when evaluation is poor, Hayashida discloses using a few trucks in oppose to all trucks at his low difficulty level, lines 9-12 at paragraph [0008]. As shown, by not involving all his trucks a few of operation switches will be skipped to allow players to be more comfortable playing the game. Accordingly, claims 9, 22 are obvious.

As per claims 10, 23, Hayashida implicitly discloses always generating presentation effect according to the types of operation switches defined by operation pattern data irrelevant to the control of difficulty level, lines 1-6 at paragraph [0012].

As per claims 11, 24 Okada teaches that the game is considered a success if the manipulation of operation switches is performed correctly / coincide within the time limit, 2:30-45. Differing the increase of game score according to difficulty level is known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the system as such in order to entice the player to learn the game so they can earn more credits.

As per claims 12, 25, Okada teaches evaluation means evaluating a coincidence between operation timings defined by operation pattern data and the operation timings

Art Unit: 3713

of the operation switches operated by the player based on a predetermined allowable range extending from the operations timings defined by operation pattern data, see abstract, 1:15-22, 57-62.

As per claims 13, 26, Okada teaches differing the allowable range based on the difficulty level in order to provide a challengeable game to players, 1:31-33

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. US Patent No. 4,366,960 to Bromley et al., which teach electronic boxing game.
 - b. US Patent No. 4,395,760 to Soski et al., which teach electronic baseball game.
 - c. US Patent No. 4,752,069 to Okada, which teaches video game, which instructs the user how to play.
 - d. US Patent No. 4,837,734 to Ichikawa et al., which teaches method and apparatus for master-slave manipulation supplemented by automatic control based on level of operator skill
 - e. US Patent No. 5,454,723 to Horii, which teaches karaoke apparatus and method for medley playback.
 - f. US Patent No. 5,683,082 to Takemoto et al., which teaches game system controlling termination of playing and degree of playing difficulty.

Art Unit: 3713

- g. US Patent No. 5,993,315 to Strider et al., which teach video game for simulating a low rider vehicle.
- h. US Patent No. 6,227,968 to Suzuki et al. which teach dance game apparatus and step-on base for dance game.
- i. US Patent No. 6,402,619 to Sato which teaches method for displaying a shoot of a character in a video game, storage medium for storing a video game program, and video game device.
- j. US Patent No. 6,471,584 to Wada et al., which teach simulation game machine.
- k. US Patent No. 6,500, 065 to Sato, which teaches image displaying method, device, storage medium, and game machine for basketball based game with variable shot success feature.
- l. US Patent No. 6,572,478 to Miyamoto et al. which teach video game system and video game memory medium.
- m. US Patent No. 6,582,309 to Higurashi et al., which teaches game system and computer-readable recording medium.
- n. US Patent No. 6,585,593 to Okano et al., which teach game device for displaying game input operations of the display.
- o. US Patent No. 6,638,160 to Yoshitomi, which teaches game system allowing calibration of timing evaluation of a player operation and storage medium to be used for the same.
- p. US Patent No. 6,659,873 to Kitano et al., which teaches game system, game device capable of being used in the game system, and computer-readable memory medium.

Art Unit: 3713


q. Japanese Patent No. 40953335A to Shimizu which teaches video game machine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, T. Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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